

DIVISION OF BANKING AND FINANCIAL INSTITUTIONS AGENT FOR SERVICE OF PROCESS FACT SHEET

The Division of Banking and Financial Institutions of Montana is charged with the duties of regulating mortgage brokers, mortgage lenders, and mortgage loan originators employed by mortgage brokers and mortgage lenders in Montana. Pursuant to Montana statute, the Division, in performing those duties, shall act as the Agent for Service of Process under certain circumstances.

The following information is being provided to you as a basis for effectuating Service of Process through the Division.

FOR WHOM DOES THE DIVISION ACT AS AGENT?

- All Mortgage Brokers, Mortgage Lenders, and Mortgage Loan Originators doing business in Montana that do not have a physical office location in this state.

WHAT ITEMS NEED TO BE SENT TO THE DIVISION TO EFFECT SERVICE OF PROCESS?

- Duplicate (two) copies of all service documents. The Original Summons is not needed.
- Specific mortgage broker, mortgage lender, or loan originator name. The Division cannot accept service for a generic group of brokers, lenders, or loan originators.
- One signed original and one copy of the notice and acknowledgment of service by mail that conforms to Form 18-A of the Appendix of Forms to the Montana Rules of Civil Procedure, Title 25, ch. 20, Mont. Code Ann.

HOW IS SERVICE DELIVERED TO THE DIVISION?

- U.S. Mail¹
- Sheriff's Office
- Process Server
- Personal Delivery by anyone who is over 18 years old and not a party to the action
- Levying Officer

WHAT STATUTES OR RULES ARE REFERENCED FOR SERVICE OF PROCESS?

2009 Laws of Montana, Chapter 321, Section 21
Rule 4D(1)(b)(i) Montana Rules of Civil Procedure

¹ If items are delivered through the U.S. Mail, they must be accompanied by one signed original and one copy of the notice and an acknowledgment of service by mail.

APPOINTMENT OF ATTORNEY TO ACCEPT SERVICE OF PROCESS

(Name of company or loan originator) appoints THE DULY ELECTED COMMISSIONER OF BANKING AND FINANCIAL INSTITUTIONS OF THE STATE OF MONTANA as its attorney to receive service of legal process in any action or proceeding against it in the State of Montana. The company or loan originator authorizes the Commissioner or in the Commissioner's absence, an employee of the Commissioner, to acknowledge service of legal process on behalf of the company or loan originator in this state.

The company or loan originator does consent and agree that any legal process against it or him/her that is served upon the Commissioner as appointed attorney shall have the same legal force and validity as if served upon the company or loan processor. The company or loan originator waives all claim to or right of error by reason of such acknowledgment of such service.

This appointment and authority is irrevocable, binds the company or loan originator, and any successor in interest in, or to the assets and liabilities of, the company or the loan originator and remains in effect as long as any liability remains outstanding or pending in the State of Montana on account of any loan origination by or through the company or loan originator.

SIGNATURE AND ATTESTATION

For a company:

This Appointment must be signed by a qualified company officer or other such individual authorized to bind the company. I hereby certify that my position with the company and my actual authority to certify on behalf of the company meets the foregoing requirements.

Signature of Authorized Officer: _____
Print name of Authorized Officer: _____
Title: _____
Date: _____

For an individual:

Signature of individual: _____
Print name of individual: _____
Title: _____
Date: _____

STATE OF _____)
:
COUNTY OF _____)

On _____, _____ before me, _____, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature: _____ (SEAL)
Printed Name:
Residing at:
My Commission Expires:

Name and address of person to whom Service of Process is to be forwarded by the Division:

_____.